

ADMINISTRATIVE PANEL DECISION

Zacks Investment Research, Inc. v. Jamez, Techtony
Case No. D2023-0404

1. The Parties

The Complainant is Zacks Investment Research, Inc., United States of America (“United States”), represented by Latimer LeVay Fyock LLC, United States.

The Respondent is Jamez, Techtony, United States.

2. The Domain Name and Registrar

The disputed domain name <zacktrading.net> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Privacy Protection) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 31, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 3, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on March 3, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an investment research firm in the United States which has offered independent research and investment related content since 1978. The Complainant's research services are used by analysts at brokerage firms in providing their clients with investment information. The Complainant owns trademark registrations to a family of ZACKS marks as follows:

- ZACKS, United States Trademark Registration Number 5652428, registered on January 15, 2019;
- ZACKS ULTIMATE, United States Trademark Registration Number 5683596, registered on February 26, 2019;
- ZACKS INVESTOR COLLECTION, United States Trademark Registration Number 5683595, registered on February 26, 2019;
- ZACKS. OUR RESEARCH. YOUR SUCCESS., United States Trademark Registration Number 5500740, registered on June 26, 2018;
- ZACKS RANK, United States Trademark Registration Number 5664114, registered on January 29, 2019;
- ZACKS CONFIDENTIAL, United States Trademark Registration Number 5683592, registered on February 26, 2019; and
- ZACKS PREMIUM, United States Trademark Registration Number 5683593, registered on February 26, 2019.

The Complainant owns and operates its primary website at <zacks.com>. Further, the owner of the Complainant operates the website at <zackstrade.com> which allows individual investors to trade.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on December 14, 2022, and at the time of the filing of the Complaint resolved to a page that claims to be for a company called "Zacks Tradings" offering trading services for cryptocurrency and other assets. At the time of this decision, the disputed domain name does not resolve to an active site ("Hosting Account Suspended").

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the ZACKS trademarks in which the Complainant has rights. The Complainant explains that the most dominant element of the disputed domain name is "zack" which is the primary component of the Complainant's ZACKS trademarks, and the only difference is the lack of the letter "s." The Complainant asserts that "trading" is a non-distinctive, descriptive, or generic term, and that it does not change the overall impression of the disputed domain name, or avoid confusion.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that the disputed domain name is presumably the website of a company called “Zacks Tradings” but the disputed domain name is <zacktrading.net> without the “s” which suggests that this is a non-existent company and that the Respondent is attempting to associate itself with the Complainant by creating this website.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant explains that its ZACKS trademark is well-known and the Respondent’s registration of the disputed domain name which incorporates ZACKS and the term “tradings” for use with a website offering online trading services compete with the services of the Complainant and is likely to attract Internet users who mistakenly believe that the disputed domain name is affiliated with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark ZACKS. As for the disputed domain name, it consists of the term “zack” inseparably combined with the term “trading”. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, “zack” is readily recognizable within the disputed domain name. As such, the disputed domain name is confusingly similar to the ZACKS trademark. The additional term “trading” does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Here, the disputed domain name resolves to a website of that claims to be for a company called “Zacks Tradings,” but the disputed domain name is inconsistent with the name. Also, the website at the disputed domain name describes the company as founded in 2017, but does not even provide a full address or phone number. Based on these facts, it appears likely that the “Zacks Tradings” company does not exist, and that the Respondent did not register or use the disputed domain name for legitimate purposes, but as a pretext for commercial gain or other such purposes to the Respondent’s benefit.

For the reasons provided above, and with no response from the Respondent, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

The registration of the disputed domain name which is confusingly similar to the Complainant's trademark ZACKS, by an entity which is not affiliated with the Complainant, creates a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. And based on the Respondent's use of the disputed domain name for offering trading services, essentially the same services of the Complainant, it is clear that the Respondent knew of the Complainant and its trademarks at the time of the registration of the disputed domain name and that it was targeting the Complainant's trademarks.

In fact, it is likely that the Respondent created a website for a fake company using a domain name similar to the Complainant's trademark in order to confuse and mislead visitors as to its association with the Complainant, which has an established reputation in connection with trading services in order to engage in fraudulent activity. The similarity of the disputed domain name to the Complainant's domain name <zackstrade.com> only increases the likelihood of confusion. The use of a domain name for *per se* illegitimate activity is manifestly considered evidence of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. In the circumstances of this case, the fact that the disputed domain name no longer resolves to an active site is further evidence of bad faith.

For the reasons given above, the Panel finds that the third element has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <zacktrading.net> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: March 17, 2023